

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

NORMAN GEORGE KEHLING,)	
)	
Plaintiff)	
)	
v.)	Civil No. 96-0022-B
)	
DONALD ALLEN, et al.,)	
)	
Defendants)	

RECOMMENDED DECISION

Plaintiff filed this *pro se* action on January 24, 1996, together with an Application to Proceed *in Forma Pauperis*. The Application was Granted on that date. Defendants now move to dismiss Plaintiff's Complaint pursuant to 28 U.S.C. § 1915(d) for the reason that the allegation of poverty contained in the Application is untrue.

The Court has carefully reviewed Plaintiff's explanation for his failure to report income and gifts received during the prior year, as explicitly requested on the form Application. The Court is satisfied that the Application is untrue, and that Plaintiff acted recklessly in completing it. While Plaintiff's desire to use his money for the benefit of his children is laudable, it is for the Court to determine whether Plaintiff's financial status warrants leave to proceed *in forma pauperis*.

Further, the Court is satisfied that Plaintiff is still attempting to mislead the Court. Specifically, he claims that when he mailed \$ 35 out of the institution on January 11, 1996, and another \$100 on January 22, he did not know he would be filing a Complaint with this Court. However, both the Application to Proceed *in Forma Pauperis* and the Complaint, although filed on January 24, are dated January 8, 1996.

Conclusion

Accordingly, I hereby recommend Defendants' Motion to Dismiss be GRANTED.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) (1988) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

Eugene W. Beaulieu
United States Magistrate Judge

Dated in Bangor, Maine on May 8, 1996.